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REMARKS

Claims 1, 2 and 4-7 remain in the application.

NOVELTY REJECTIONS

The Office Action rejects claims 1, 2, 5, and 7 as being anticipated by Parthesarathy *et al* (US6353926B1) under 35 U.S.C. § 102(e), which states, in pertinent part, that an applicant is not entitled to a patent on an invention if that invention was disclosed in a US patent that issued from an application that another person filed before the applicant's invention date. According to the Office Action, the Parthesarathy *et al* patent, which issued on an application filed in the United States 29 February 2000, discloses a method including steps satisfying all of the limitations of claims 1, 2, 5, and 7.

The applicant now deals with each of the Examiner's comments in turn:

Regarding claim 1, the Examiner contends that Parthesarathy *et al* discloses at column 2, lines 17 to 23 that the recipient computer sends an update request as an e-mail message to an owner computer. As a first point of clarification, the recipient computer referred to in the claims of the present application is analogous to the user's computer referred to in Parthesarathy *et al* and the owner computer is analogous to the vendor's computer. Referring to column 2, line 17 to 23, it states that whenever an update is detected, a software update is delivered via the software channel to the user's (recipient) computer. As explained in the previous response, the software channel is in effect an allocation of the bandwidth of the connection between the user's computer and the vendor computer and as such forms a direct communication channel. It is via the software channel that the user's computer periodically checks whether or not a new update is available, see column 6 line 3 to 10. In other words, any update check, or request, from the user's computer (recipient computer) is sent via the direct communications software channel and not as an e-mail message. The e-mail notification referred to in column 2,

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lines 17 to 23 is a notification sent to the recipient computer and merely serves the purpose of notifying the user that a new software update is available. The notification does not in itself constitute an update request.

The Examiner next states that Parthesarathy *et al* discloses at column 6, lines 1 to 31 that the owner computer (vendor computer) automatically analyses the update request and prepares a corresponding update response in response to receiving the update request email. In fact, in Parthesarathy *et al* the vendor computer (owner computer) merely makes available the updated data files and it is the user's computer (recipient computer) that performs the necessary checks via the software channel to determine when an update is available. Two alternative mechanisms for this are described at column 7 line 55 to column 8 line 10 and column 8 line 64 to column 10 line 20. The vendor computer (owner computer) does not therefore receive an update request e-mail and does not perform any analysis of such an update request. The e-mail referred to in column 2, line 20 to 25 of Parthesarathy *et al* is simply the e-mail notification transmitted from the vendor computer (owner computer) and as such is not analogous to the update request e-mail. It is unclear as to which feature of claim 1 the Examiner considers the .lnk file referred to in column 2 to be analogous to. The .lnk file is simply a shortcut file used to launch the particular application on the user's computer (recipient computer) for which the updates are provided. The .lnk file is neither an e-mail nor an attachment to an e-mail.

With regards to the next section of the claim, the pertinent passage of this section has been amended to further clarify that "the software and/or data update comprises an e-mail message having one or more files to be updated included as attachment files in the e-mail message". This is in contrast to the case in Parthesarathy *et al* in which only an e-mail notification is automatically sent from the vendor computer (owner computer), as opposed to the actual software and/or data update itself. A further contrast between the amended claim language of the current application and Parthesarathy *et al* is that the e-mail notification sent by the vendor computer in Parthesarathy *et al* does not include the

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files to be updated as attachments to that e-mail, since that e-mail is merely a notification e-mail. One of the alternative notification mechanisms disclosed in Parthesarathy *et al* is that of "gleaming the icon". This presumably means highlighting the application icon on the desktop of the user's computer and as such is not regarded by person skilled in the art as being in any way analogous to receiving an e-mail attachment. As previously, the LNK file referred to in Parthesarathy *et al* is simply the shortcut file on the user's computer that causes the application in question to be launched. Again, this is in no way analogous to an e-mail attachment.

The final part of claim 1 as now amended clarifies that the recipient computer (user's computer) automatically responds to the software and/or data update by opening the attachment files and updating the software and/or data. While the applicant acknowledges that the update process described in Parthesarathy *et al* can occur automatically, the update files are transferred directly from the vendor computer (owner computer) to the user's computer (recipient computer) by means of the software update channel, and are then subsequently installed in a conventional manner. The update files are not therefore provided as attachment files to be opened by the user's (recipient) computer, as recited in claim 1 of the current application. Again, it is not clear to which feature of the claim that the Examiner is referring to when referring to the LNK file, this file merely being the software shortcut used to launch the particular software application.

In summary, the applicant maintains his view that the inventive features of the current application as recited in claim 1 are not disclosed in Parthesarathy *et al*. Specifically, the user's computer (recipient computer) does not send an update request as an e-mail to the vendor computer (owner computer). In contrast, the user computer periodically checks for updates at the vendor computer via a software channel, this software channel constituting a direct communication link and is not analogous to an e-mail message being sent from the user computer to the vendor computer requesting an update. Further, the vendor computer (owner computer) does not prepare a corresponding software and/or data update in response to receiving an update request e-

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mail from the user computer (owner computer), but rather simply makes software and/or data updates available at the vendor computer for the user computer to access during the next periodic update check. In addition, the software and/or data update files are not provided by the vendor computer (owner computer) in the form of attachment files to an e-mail message but are, as previously explained, transferred directly between the vendor and user computers. It is submitted that by clarifying in claim 1 that it is the software and/or data updates themselves that are prepared and forwarded as attachments to an e-mail message, as opposed to a mere e-mail notification, and that the automatic updating of the software and/or data updates occurs by the automatic opening of the attachment files that claim 1 is now clearly distinguished from Parthesarathy *et al* and should therefore be allowed.

The applicant maintains that claims 2, 5, and 7 are allowable because they depend from an allowable base claim.

OBVIOUSNESS REJECTIONS:

The Office Action rejects claims 4 and 6 under 35 U.S.C. § 103(a) as being unpatentable over Parthesarathy *et al.* in view of Cantos *et al.* (US6529784B1). In addition to the arguments set forth in the applicant's previous response, the applicant maintains that claims 4 and 6 are patentable over the cited references because claims 4 and 6 depend from an allowable base claim.

Claims 1, 2, and 4-7 recite patentable subject matter and are allowable. Therefore, the applicant respectfully submits that the application is now in condition for allowance and respectfully solicits such allowance. Please favorably reconsider the outstanding office action.

Please enter the amendment under the provisions of 37 CFR §1.116 and reconsider claims 1-16 in view of the foregoing amendments and remarks.

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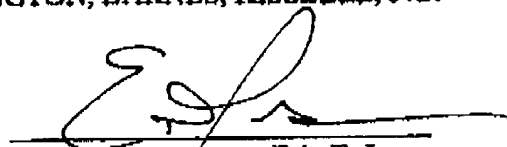
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The applicant requests a telephone interview with the examiner and applicant's US attorney to discuss the issues discussed in this response. The applicant requests that this interview takes place in the morning of either 19 or 20 July, 2004.

I authorize the Assistant Commissioner to charge the one month extension fee of \$55.00 to Deposit Account No. 50-0852.

Respectfully submitted,

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Date: July 15, 2004

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